IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 8805 of 2005

Between:

M/s.Balaji Glass & Plywood Centre, Main Road,

Piduguralla-522 601, Guntur District, rep., by its
Proprietor, Veluguri Srinivasa rao

..... PETITIONER

AND

1 The Commercial Tax Officer, Piduguralla, Guntur District.
2 The Deputy Commercial Tax Officer, Piduguralla, Guntur District.
3 The Assistant Commercial Tax Officer, Guntur-II Division, Guntur.
4 The Assistant Commissioner (CT)(Int.) & (LTU), Narasaraopet Division, Guntur.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, or order more particularly, one in the nature of writ of mandamus declaring the impugned Endorsement dated 13-4-2005 issued by the 4th respondent in Ref.No.Spl.Reg.No.11/2005.CII-3 as illegal, arbitrary, besides being contrary to law and unjustified in the facts and circumstances of the case and pass such other order or orders as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner: MR.B.SRINIVAS

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following:

ORDER: (Per BRSR,J)

We have heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the Department in detail.

The petitioner in the instant writ petition challenges the correctness and legality of the endorsement, dated 13.04.2005, issued by the fourth respondent-Assistant Commissioner, (CT) (Int.) & (LTU), Narsaraopet Division, Guntur, which reads as follows:

> "M/s.Balaji Glass & Plywood Centre, Macherla Road, Piduguralla has been given time up to 17.4.2005 for production of relevant records at the time of verification of certain 'C' form made on 7.4.2005.
>
> Today i.e., on 13.04.2005 M/s.Balaji Glass & Plywood Centre, Macherla Road, Piduguralla has filed a letter seeking time upto 7.5.2005. In this context they are requested to pay an amount of Rs.50,000/- (Rupees Fifty Thousand Only) towards part payment of tax within 3 (THREE) days from today. If such amount is not paid, the time sought for may be treated as denied because the time allowed on 7.4.2005 itself was at their choice and requirement and seeking further time shall have to be construed as deliberate attempt to postpone the conclusion of the enquiry."

The endorsement itself is self-explanatory. The petitioner, on his own, sought time for production of relevant records before the authorities concerned and accordingly time was granted up to 17.04.2005. On 13.04.2005 the petitioner filed a letter seeking time till 07.05.2005 for the purpose of production of the records. The authority having conceded to the request of the petitioner herein required the petitioner to pay an amount of Rs.50,000/- (Rupees Fifty Thousand only) towards part payment of tax within three days from that date with a further observation that if such amount is not paid, time sought for may be treated as

denied because the time allowed on 07.04.2005 itself was at the choice of the petitioner.

Sri B.Srinivas, learned counsel for the petitioner strenuously contends that this action of the fourth respondent in requiring the petitioner to pay the specified amount towards part payment of tax, even before any assessment order, is totally unjustified and illegal.

We find it difficult to accept the said submission made by the learned counsel for the petitioner for the simple reason that the petitioner cannot seek time eternally for production of the records as required by the authorities concerned. The petitioner did not deny its responsibility and liability to produce the records as required by the officer. It is also not denied that the time has been granted by the fourth respondent at the request of the petitioner. In our considered opinion, the petitioner is bound to produce the records unless the petitioner takes the plea that there are no such records available and it is not bound to produce the records. Such is not the case on hand. In the circumstances, we find it difficult to accept the submission made by the learned counsel for the petitioner.

However, the amount of Rs.50,000/- required to be deposited by the petitioner herein shall lie in deposit with the respondents subject to the final orders to be passed by the authority concerned and it cannot be treated as part payment of tax. It is needless to direct that in case of non-deposit of the amount as required by the fourth respondent, it shall be open to him to pass appropriate orders after duly considering the objections, if any, already raised by the petitioner, in accordance with law.

The writ petition is accordingly disposed of.

_____

B. SUDERSHAN REDDY, J.

Date: 20/04/2005.

_____

C.V. RAMULU, J.

GS/GRR

To

1 The Commercial Tax Officer, Piduguralla, Guntur District.

2 The Deputy Commercial Tax Officer, Piduguralla, Guntur District.

3 The Assistant Commercial Tax Officer, Guntur-II Division, Guntur.

4 The Assistant Commissioner (CT)(Int.) & (LTU), Narasaraopet Division, Guntur.

5 Two CCs to the G.P. for Commercial Taxes, High Court of A.P., Hyderabad (OUT)

6 Two C.D. Copies.